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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 JOSSIE RAMOS; MELISSA ORTIZ
15 Plaintiffs,

16 vs.
17 GARY SWATZELL; JASON
18 HORIGAN; RICARDO LLAMAS;
19 SERGEANT LUIS FLORES;
20 GUILLERMO GARCIA, Warden of
the California Institution for Women;
21 MATTHEW CATE, Secretary of
California Department of Corrections
and Rehabilitation;

22 Defendants.

23 } Case No.: 5:12-CV-01089 (BRO)(SPx)

24 } **PLAINTIFFS' RESPONSE TO
25 ORDER TO SHOW CAUSE
26 RE: SANCTIONS**

27 } Judge: Hon. Beverly Reid O'Connell
28 } Courtroom: 7C

29 **RESPONSE TO ORDER TO SHOW CAUSE**

30 By order, filed on December 30, 2016 and entered on January 3, 2017 [Doc.
31 174], this Court ordered Plaintiffs' counsel (Jenny Huang) to show cause why she
32 should not be sanctioned for failure to comply with the Local Rules of the Central
33 District, Rule 7-3 before filing her letter to the court, filed on December 26, 2016
34 [Doc. 171]. Pursuant to Local Rule 7-3, counsel contemplating the filing of any
35 motion shall first contact opposing counsel to thoroughly discuss, preferably in

1 person, the substance of the contemplated motion and any potential resolution.
2 This response is submitted to demonstrate that Ms. Huang did adequately meet and
3 confer with opposing counsel, in compliance with Local Rule 7-3, prior to her
4 misguided attempt to modify the Schedule of Trial and Pretrial Dates in a manner
5 that was subsequently shown to be agreeable to all parties.

6 On December 21, 2016, Ms. Huang sent an email to Deputy Attorney
7 General Douglas Baxter, advising that Plaintiffs intended to send a letter to the
8 Court requesting that the civil trial order filed on December 20, 2016 [Doc. 169] be
9 modified to remove the additional nine months for discovery and a second
10 opportunity to litigate dispositive motions, without request for leave for additional
11 discovery or motion practice by either party. (Declaration of Jenny Huang, filed
12 January 4, 2017 (“Huang Decl.”) at ¶¶ 9-11.) Prior to Defendants’ Response to
13 Plaintiffs’ Letter Re: Scheduling Order, Ms. Huang did not have any reason to
14 believe that Mr. Baxter did not receive her complete email sent on December 21,
15 2016. (*Id.* at ¶ 28; Exh. B.) Based on her discussion in person with Mr. Baxter prior
16 to the status conference on December 20, 2016, Ms. Huang assumed at the time
17 that she made her request to the court for modification of the civil trial order that
18 her request would not be opposed by Mr. Baxter. (Huang Decl. at ¶¶ 3-6.) Indeed,
19 the Attorney General’s subsequent response to Ms. Huang’s filed request indicates
20 that Defendants agree that discovery in this case has been completed and any
21 additional discovery and/or motion practice would require leave of court. (Defs.
22 Response to Plaintiffs’ Letter Re: Scheduling Order [Doc. 172] at p. 5:11-20.)

23 Ms. Huang reasonably decided on December 26, 2016 to file her letter to the
24 Court requesting modification of the civil trial order without further waiting for
25 Mr. Baxter to respond to her email communication sent on December 21, 2016.
26 (Huang Decl. at ¶¶ 13, 17-26.) Based on a history of either delayed or no response
27 to communications from Ms. Huang to the Attorney General’s Office, the actions
28 of Plaintiffs’ counsel were in good faith and in the best interests of her clients by

1 proceeding in an expeditious manner to request the relief sought, without
2 confirmation in advance from Mr. Baxter that he joined in her request. (*Id.* at ¶¶
3 19-25.) Ms. Huang admittedly failed to comply with Local Rule 83-25 by
4 attempting to seek relief by way of a letter addressed to the court (rather than by
5 way a stipulation and order) and has assured the court that no such further
6 violations will occur. (*Id.* at ¶¶ 13-16.)

7 On December 30, 2016, Ms. Huang prepared a proposed stipulation and
8 order to modify the civil trial order as requested in her improper letter to the court.
9 (*Id.* at ¶ 32; Exh. D.) Due to exigent circumstances concerning her mother's
10 health, Ms. Huang was unable to email her proposed stipulation to Mr. Baxter until
11 January 2, 2017. (*Id.* at ¶¶ 33-34.) To date, the Attorney General's Office has not
12 yet advised whether it will agree to the stipulation and order proposed by
13 Plaintiffs' counsel but a response was requested by January 4, 2017. (*Id.* at ¶¶ 35-
14 37; Exh. D.)

15 The circumstances in this case are remarkably different from the facts in
16 *Bernal v. Rodriguez*, No. 5:16-cv-00152 (CAS)(DTBx), 2016 WL 1610597, at *1,
17 n.2 (C.D.Cal. Apr. 20, 2016), in which the court admonished the parties and
18 warned that the failure to meet and confer prior to filing motions could result in
19 monetary or non-monetary sanctions. In this case, the relief requested by
20 Plaintiffs' counsel is not opposed and is not expected to require the court's
21 intervention by way of a noticed motion. Prior to filing her letter to the court, Ms.
22 Huang emailed Mr. Baxter in advance and advised him of her intent to file and
23 letter and the relief she would request. Further, Ms. Huang met in person with Mr.
24 Baxter, prior to filing her letter, about case scheduling issues and reasonably
25 concluded that the relief requested was uncontroversial and not likely to be
26 disputed by the Attorney General's Office.

CONCLUSION

For these reasons, Plaintiffs submit that sanctions are not warranted for any violation by Plaintiffs' counsel (Jenny Huang) of Local Rules of the Central District, rule 7-3 and that Ms. Huang acted in good faith and in compliance with the local rule.

Date: January 4, 2017

JUSTICE FIRST

/s/ Jenny Huang
Jenny C. Huang
Attorneys for Plaintiffs Jossie Ramos
and Melissa Ortiz
180 Grand Avenue, Suite 1300
Oakland, CA 94612

PROOF OF SERVICE

Re: *Ramos, Ortiz v. Gary Swatzell, et al.*, Case No. 5:12-cv-01089 (BRO)(SPx)

I, the undersigned, hereby declare:

1. I am a citizen of the United States of America over the age of eighteen years. My business address is Justice First, 180 Grand Avenue, Suite 1300, Oakland, CA 94612. I am not a party to this action.

2. On January 4, 2017, I electronically filed these documents entitled **Plaintiffs' Response to Order to Show Cause re: Sanctions and Declaration of Jenny Huang with Exhibits A-E** by using the CM/ECF system. I certify that the following individual(s) are registered CM/ECF users and that service will be accomplished by the CM/ECF system:

Douglas Baxter
Deputy Attorney General
Office of the Attorney General
600 West Broadway, Suite 1800
San Diego, CA 92186-5266
Email: Douglas.Baxter@doj.ca.gov

Attorney for All Defendants Except Gary Swatzell

3. On January 4, 2017, I also served these documents entitled **Plaintiffs' Response to Order to Show Cause re: Sanctions and Declaration of Jenny Huang with Exhibits A-E**, by depositing a prepaid envelope containing the above-listed documents in an official depository under the exclusive care and custody of the U.S. Postal Service, addressed as follows:

Gary Swatzell
2744 W. Rialto Avenue, #60
Rialto, CA 92376

I declare under penalty of perjury the foregoing is true and correct.

Date: January 4, 2017

/s/ Jenny Huang
Jenny C. Huang